



Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation NN (FR NN; OMB No. 7100-0353).

DATES: Comments must be submitted on or before [insert date 60 days after publication in the Federal Register].

ADDRESSES: You may submit comments, identified by FR NN, by any of the following methods:

- Agency Website: <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: regs.comments@federalreserve.gov. Include the OMB number or FR number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684.

Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal under OMB Delegated Authority to Extend for Three Years, Without Revision, the Following Information Collection:

Report title: Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation NN.

Agency form number: FR NN.

OMB control number: 7100-0353.

Frequency: As needed.

Respondents: State member banks, uninsured state-licensed branches of foreign banks, financial holding companies, bank holding companies, savings and loan holding companies, agreement corporations, and Edge Act corporations that engage in retail foreign exchange transactions (collectively, banking institutions).

Estimated number of respondents: Reporting, section 240.4: 1; recordkeeping, sections 240.7, 240.9(b)(2), and 240.13(a): 2; disclosure, sections 240.5(a), 240.6, 240.10, 240.13(c)-(d), 240.15, and 240.16(a) and (b): 2.

Estimated average hours per response: Reporting, section 240.4: 16; recordkeeping, sections 240.7, 240.9(b)(2), and 240.13(a): 183; disclosure, sections 240.5(a), 240.6, 240.10, 240.13(c)-(d), 240.15, and 240.16(a) and (b): 787.

Estimated annual burden hours: Reporting, section 240.4: 16; recordkeeping, sections 240.7, 240.9(b)(2), and 240.13(a): 366; disclosure, sections 240.5(a), 240.6, 240.10, 240.13(c)-(d), 240.15, and 240.16(a) and (b): 1,574.

General description of report: Section 742(c)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended section 2(c)(2) of the Commodity Exchange Act (CEA) to prohibit persons supervised by certain Federal regulatory agencies, including the Board, from entering into, or offering to enter into, certain types of foreign exchange transactions, except pursuant to a rule or regulation promulgated by the relevant supervising agency. The Board's Regulation NN (12 CFR part 240) authorizes banking institutions supervised by the Board to conduct retail foreign exchange transactions and establishes certain reporting, recordkeeping, and disclosure requirements for banking institutions that choose to conduct such transactions.

Legal authorization and confidentiality: The reporting, recordkeeping, and disclosure requirements in Regulation NN are authorized pursuant to section 2(c)(2)(E) of the CEA,¹ which prohibits a United States financial institution and its related persons under the supervision of a Federal regulatory agency, such as the Board, from offering or entering into certain types of foreign exchange transactions with retail customers except pursuant to a rule or regulation prescribed by the appropriate Federal regulatory agency allowing the transaction under such terms and conditions as the Federal regulatory agency shall prescribe.² Regulation NN's

¹ 7 U.S.C. section 2(c)(2)(E).

² Additionally, the Board also has the authority to require reports from state member banks under section 11 of the Federal Reserve Act (FRA), 12 U.S.C. section 248; from branches of foreign banks under sections 9 and 13 of the International Banking Act of 1978, 12 U.S.C. sections 3106a and 3108; from bank holding companies under section 5(b) and (c) of the Bank Holding Company Act of 1956, 12 U.S.C. section 1844(b) and (c); from savings and loan holding companies under section 10 of the Home Owners' Loan Act, 12 U.S.C. sections 1467a(b) and (g); from Edge Act corporations under section 25A(17) of the FRA, 12 U.S.C. section 625; and from agreement corporations under section 25 of the FRA, 12 U.S.C. sections 601-604a.

reporting, recordkeeping, and disclosure requirements are mandatory for banking institutions that engage in retail foreign exchange transactions.

The reporting requirement under section 240.4 of Regulation NN requires a banking institution to provide a prior written notice to the Board that includes information concerning customer due diligence; the policies and procedures for haircuts to be applied to noncash margin; information concerning new product approvals; and information on addressing conflicts of interest. This information is likely to constitute nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent, and thus may be kept confidential by the Board pursuant to exemption 4 of the Freedom of Information Act (FOIA).³ In addition, the prior written notice must also include a resolution of the banking institution's board of directors certifying that the institution has written policies, procedures, and risk measurement and management systems and controls in place to ensure retail foreign exchange transactions are conducted in a safe and sound manner and in compliance with Regulation NN. Generally, this resolution by the board of directors would not be accorded confidential treatment. If confidential treatment is requested by a banking institution, the Board will review the request to determine if confidential treatment is appropriate.

The records and disclosures required by Regulation NN generally are not submitted to the Federal Reserve. Accordingly, confidentiality issues generally do not arise under the FOIA. In the event such records or disclosures are obtained by the Federal Reserve through the examination or enforcement process, such information may be kept confidential under exemption 8 of the FOIA,⁴ which protects information contained in or related to an examination of a financial institution.

Board of Governors of the Federal Reserve System, November 17, 2021.

³ 5 U.S.C. section 552(b)(4).

⁴ 5 U.S.C. section 552(b)(8).

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

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